

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

SARA AND JOSEPH HARMON,

Plaintiffs,

CASE NO. 18-CV-209-JPS

v.

CITY OF RACINE, SGT. RYAN
COMSTOCK, INV. CHAD STILLMAN,
INV. DONALD NUTTALL,
SGT. ROBERT THILLEMANN,
in their individual capacities,

Defendants.

**DEFENDANTS' NOTICE OF FILING DEPOSITIONS FOR SUMMARY
JUDGMENT MOTIONS AND UNOPPOSED CIV. L.R. 7(h) EXPEDITED NON-
DISPOSITIVE MOTION TO SEAL CERTAIN DOCUMENTS**

Please take notice that pursuant to Section 8.a. of the Court's Trial Scheduling Order, and so that the Court may have uniform citations for any deposition testimony the parties may be relying on in their pending summary judgment motions, the Defendants are hereby filing through the attached Declaration of Nhu Arn the deposition transcripts of Donald Nuttall and Jeffrey Bebow, with exhibits, all of which may be used by the parties in their filings related to their respective briefs in opposition of the parties' pending summary judgment motions. Furthermore, pursuant to Civil L.R. 7(h), Federal Rule of Civil Procedure 26(c)(1), Civil L.R. 79, and this Court's May 4, 2018 Protective Order (the "Protective Order") (ECF No. 22), Defendants move this Court, unopposed, for an order sealing Exhibits 30, 32, 34, 37 to the Deposition Transcript of Jeffrey Bebow and Exhibits 38, 44 and 46 to the Deposition Transcript of Donald Nuttall, and instead making

publicly available only the redacted versions of Exhibit Nos. 30, 32, 34, 37, 38, 44 and 46. Plaintiffs' counsel has represented to Defendants' counsel that Defendants may file this Motion unopposed. In support of this Motion, the Defendants state as follows:

1. The Protective Order provides that “[p]ersonal identification information, including social security numbers, passports, drivers’ licenses, personal vehicle information, personal phone numbers, home addresses, financial account numbers, and dates of birth” are to be handled as confidential in this case. (ECF No. 22, at 3, § 1.a.)

2. The Protective Order also provides that “medical information, records, treatment, and diagnosis,” as well as “confidential informant” information are to be handled as confidential in this case. (ECF No. 22, at 3, § 1.b. and 1.e.)

3. Moreover, Federal Rule of Civil Procedure 5.2 provides that a filing containing the name of an individual known to be a minor may only include “the minor’s initials”, Fed. R. Civ. P. 5.2(a)(3), and that a filing containing a birth date may only include “the year of the individual’s birth”, Fed. R. Civ. P. 5.2(a)(2).¹

4. Good cause exists to seal Exhibit Nos. 30, 32, 34, 37, 38, 44, and 46, and only make publicly available the redacted copies of those Exhibits attached to the Deposition Transcripts of Jeffrey Bebow and Donald Nuttall. Good cause exists to seal these exhibits because they contain information that is clearly confidential under the Protective Order—Exhibits 30, 32, 34, 37, 44 and 46 contains personal identification information, and Exhibit 38 contains personal identification and confidential informant information. Additionally, at least one of these exhibits—Exhibit 38—appears to include information required to be

¹ To the extent that other exhibits not specified in this Notice/Motion (including Exhibit Nos. 44, 48, 51-54, 56, 60 and 63) have been redacted, these redactions were made pursuant to the Fed. R. Civ. Pro. 5.2(a)(1)-(4). Given Rule 5.2, it is the mutual understanding of the parties that these exhibits do not require a separate Order to Seal.

redacted by Fed. R. Civ. P. 5.2. Furthermore, those sealed copies are being replaced by the redacted versions attached to Declaration of Nhu Arn filed in connection with this Motion, which have been redacted only to the extent necessary to protect the confidential information, (e.g., the birthdates, personal phone numbers, addresses, and names of minors, medical information and confidential informant information)². All of this is consistent with the terms of the Protective Order and Federal Rules of Civil Procedure. (*See* ECF No. 22, at 3, § 1.a. & 10, § 10.)

5. What is more, the interests of the public do not outweigh the good cause to seal the Exhibits, replaced with redacted copies only redacted to protect the confidential information described in this Motion. None of the information being redacted plays a central role in the merits of any of the claims or defenses asserted in this case. *Cf. Standard Process, Inc. v. Total Health Discount*, 559 F. Supp. 2d 932, 946 (E.D. Wis. 2008).

6. Exhibits 39 to 43 to Donald Nuttall's deposition are either audio or visual recordings. It is the Defendants' understanding there is no way to electronically file audio or video exhibits on PACER at this time. As such, the exhibit placeholder pages will be electronically filed for these exhibits, and the Defendants will deliver the actual audio and/or visual recordings to the Court in a separate thumb drive.³

WHEREFORE, for the reasons set forth above, the Defendants respectfully request that the Court grant this Unopposed Motion and enter an order sealing Exhibits 30, 32, 34, 37 to the Deposition Transcript of Jeffrey Bebow and Exhibits 38, 44 and 46 to the

² Defendants are only redacting those names of individuals that are believed to be minors as of the date that this Motion is filed (as opposed to redacting names of individuals that were minors at the time the Exhibits were originally generated).

³ It is the Defendants' understanding that the Court preferred to receive all audio/video recordings at the same time and intend on delivering those towards the end of the briefing of the parties' summary judgment. (*See* ECF Nos. 41 & 44.)

Deposition Transcript of Donald Nuttall, and instead only make publicly available the redacted versions of these exhibits filed with this Motion.

Respectfully submitted and dated this 31st day of October 2018.

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